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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Order pronounced on 24.05.2022*

+ CRL.M.C. 175/2022

DR. AAMIR KHAN

..... Petitioner

Through: Mr. Shahid Ali, Mohd. Sadiq, Mr.
Anwar Khalil & Mr. Sameer, Advs.

versus

STATE & ANR.

..... Respondents

Through: Ms. Meenakshi Chauhan, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. The present petition has been filed for quashing the FIR No. 438/2021 under Sections 376/328 IPC registered at PS Ranjit Nagar, Central Delhi.
2. Notice was issued. Status report has been filed.
3. I have heard learned counsel for the petitioner as well as the learned APP for the State.
4. The case of the petitioner is that he is an MBBS doctor and respondent no.2 is a practising lawyer. There was a love affair between two of them for the last more than 2 years and during this period the marriage proposal was also conveyed to the family of respondent no.2 by the family of petitioner and the same was also accepted by parents of respondent no.2. In the first week of September, 2020, meeting took place between the parents of both the sides and it was agreed that the marriage would be

solemnized after a period of 2 years on completion of DCH course of the petitioner. Certain differences arose between the parties on 11.09.2021 and thereafter respondent no.2 filed the present FIR against the petitioner on 28.11.2021 on the allegation that the petitioner had made physical relations with respondent no.2 on the promise of marriage on number of occasions and later on he stopped talking to her and the mother of the petitioner was insisting that the petitioner should marry a bride from the same profession. A copy of the FIR has been enclosed with the petition, wherein these allegations have been made.

4.1 It is further submitted that on 14.12.2021, the petitioner and respondent no.2 got married by performing *Nikah* as per Muslim Rites and Ceremonies and the marriage was duly registered with the office of Marriage Registrar, Ghaziabad, UP. On the same day, the petitioner was arrested despite objections from respondent no.2. He was ultimately bailed out vide order dated 19.12.2021 passed by learned ASJ but the actual release took place on 21.12.2021. When the petitioner went to his hospital, where he was employed as a junior resident doctor, to join his services, the petitioner was informed by the department that he has been terminated as he was in judicial custody continuously for 7 days. It has been submitted that the dispute between the petitioner and respondent no.2 was more of a private and civil nature, the same has already been amicably settled and both the parties have voluntarily married and have now been living together as husband and wife peacefully and respondent no.2 does not wish to pursue any proceedings, hence it has been prayed that the FIR be quashed.

4.2 The petitioner has placed on record compromise deed dated 04.04.2022 along with photograph of the marriage and reception as well as

photograph of the marriage card. The following has been stated in the compromise Deed:-

1. *That both the parties have already married on 14/12/2021 as per Islamic rites and customs and have also got their marriage register with the marriage Registrar office Ghaziabad.*
2. *That both the parties have been living together as husband and wife under the same roof at D-131, 2nd Floor Gali No. 6, CR Road, Laxmi Nagar, New Delhi Laxmi Nagar, New Delhi.*
3. *That it has been undertaken by the Second party that he will keep the First party happy and shall provide all necessities of life and shall bear all expanses being and likely to be incurred in day-to-day affairs and maintenance of both the parties.*
4. *That the Second Party shall pay for the house rent of the aforesaid accommodation and shall continue to pay in future also.*
5. *That the Second Party shall pay an amount Rs. 25,000/- to the First Party per month for enabling her to meet day to day expanses of their dwelling unit.*
6. *That the Second shall continue to pay for all expanses of the First party in future as well and shall not commit any act of cruelty or desertion.*
7. *That the First Party shall co-operate and make all endeavors to get the FIR quashed from the Hon'ble court of law and shall appear before the Hon'ble Court on all dates as and when she would be required before the Hon'ble court for making the statement requiring for quashing of FIR.*
8. *That both the parties have undertaken to discharge their marital obligation against each other and shall not give rise of any complaint of any nature”.*

5. The Status report has been filed by the State wherein the contents of the charge-sheet dated 14.03.2022 and allegation mentioned in the complaint have been reproduced. Marriage certificate stands verified as per the Status report and respondent no.2 herself also confirmed that she got married with

the present petitioner on 14.12.2021.

6. Learned counsel for the petitioner has submitted that no useful purpose will be served if the present case FIR is kept alive. Rather it will disturb the peaceful matrimonial life of the present petitioner and respondent no.2. It has been further submitted that this is not a case where the physical relations were made forcibly by the petitioner with respondent no.2 and thereafter, under the fear of being prosecuted, the petitioner has promised to marry respondent no.2. It has been reiterated that talks regarding marriage were already going on for a long time and during that period some disputes arose, which resulted in lodging of FIR by respondent no.2.

7. A coordinate bench of this Court in the matter of *Kundan & Anr. Vs. State & Ors.* CrI.M.C. 27/2022 decided on 21.02.2022 has held as under:-

“5. It is well settled that Section 482 Cr.P.C gives inherent powers to the High Court and the purpose of Section 482 Cr.P.C is to prevent the abuse of the process of law and more particularly, to secure the ends of justice. The opening words of Section 482 Cr.P.C "nothing in this Code" shows that Section 482 Cr.P.C is an over-riding provision. These words indicate that none of the provisions of the Code limits or restricts the inherent powers of Section 482 Cr.P.C.

6. The purpose of Section 482 Cr.P.C is primarily to secure the ends of justice. In Gian Singh v. State of Punjab, (2012) 10 SCC 303, the Supreme Court has observed as under:

"55. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else

not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

56. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided." (emphasis supplied)

7. Ordinarily the High Courts must show restraint in quashing FIRs for offences under Sections 376 IPC and POCSO Act. In the instant case the FIR was registered under Section 363 IPC and Section 376 IPC and Section 6 of the POCSO Act were added later on. The victim/Petitioner No.2 has stated in her 164 statement that she was in love with the Petitioner No.1 and she eloped with him out of her own volition. It is stated they got married in a temple in Uttar Pradesh on the very next day and the Petitioner No.2/victim has given birth to a baby boy. The families of the Petitioners No.1 & 2 have accepted the marriage.

8. Considering the fact that the whole life of Petitioner No.1 and Petitioner No.2 and their child would be ruined, this Court asked the learned APP as to whether she has any objections if this Court exercises its jurisdiction under Section 482 Cr.P.C and quash the FIR. Learned APP for the State very fairly and taking humanitarian approach stated that she has no objections if the instant FIR is quashed. 9. In view of the peculiar facts and circumstances of this case, this Court is inclined to quash the FIR. Resultantly, FIR No.275/2019 dated 30.10.2019 registered at Police Station Delhi Cantt for offences under Section 363/366/376 IPC and Section 6 of the POCSO Act and the proceedings emanating therefrom are hereby quashed".

8. In the above-mentioned matter, apart from invoking Section 376 IPC in the FIR in question, Section 6 of POCSO Act was also added as the prosecutrix was a minor. Even under those circumstances, a coordinate bench of this Court was pleased to quash the FIR, only with a view to save the marriage of the parties and keeping in view that both the parties were in love with each other. In the present case also, both the parties were and are in love with each other; the families of the parties were also ready regarding fixing the marriage. Although, in between certain disputes arose, which led to filing of FIR and the petitioner has remained in jail for continuously 7 days immediately after getting married on 14.12.2021. No useful purpose will be served by keeping present FIR alive as both the parties are living happily as husband and wife and apart from technical approach, this Court has also to take a humanitarian approach and to do complete justice, this Court exercises its power under Section 482 Cr.P.C. and hereby orders for quashing of FIR No. 438/2021 under Sections 376/328 IPC registered at PS Ranjit Nagar, Central Delhi and the proceedings emanating therefrom including the charge-sheet dated 14.03.2022 filed in the concerned court.

9. The petition and the pending applications, if any, are accordingly disposed of.

TALWANT SINGH, J

MAY 24, 2022/nk

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